

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

(1) BLAKE D. JOHNSON,)	
)	
Plaintiff,)	
)	
v.)	No. CIV-17-1277-HE
)	
(1) JEFFREY E. MORRIS and)	
(2) USAA CASUALTY INSURANCE)	
COMPANY, a Texas Corporation,)	
)	
Defendants.)	

NOTICE OF REMOVAL

The Petitioner, USAA Casualty Insurance Company (“USAA CIC”), Defendant in the above-captioned case, states the following:

1. The above-entitled cause was commenced on November 30, 2016 in the District Court of Payne County, entitled *Blake D. Johnson v. Jeffrey E. Morris and USAA Insurance Agency, Inc.*, Case No. CJ-2016-538. Plaintiff filed a First Amended Petition on November 20, 2017, entitled *Blake D. Johnson v. Jeffrey E. Morris and USAA Casualty Insurance Company, Inc.*, Case No. CJ-2016-538. The First Amended Petition dropped USAA Insurance Agency, Inc., as a Defendant, and added USAA CIC. Copies of Plaintiff’s Petition and First Amended Petition are attached as Exhibits 1 and 12 respectively. A copy of the First Amended Petition was served on Defendant, USAA CIC, on November 20, 2017.

2. Plaintiff has settled with Defendant Jeffery E. Morris. (See Email 8-11-2017; Letter of 11-15-2017, Exhibit 13). As such, Defendant Morris is no longer a proper party to this action, is a nominal party and/or has been fraudulently named in the First Amended Petition.

3. Defendant, USAA CIC is a foreign corporation, incorporated under the laws of Texas with its principal place of business in San Antonio, Texas. Plaintiff is a citizen and resident of the State of Oklahoma. (Amended Petition, ¶ 2, Exhibit 11). Thus, complete diversity exists between Plaintiff and

USAA CIC.

4. Plaintiff's cause of action against USAA CIC is for alleged breach of an automobile insurance contract and alleged breach of the duty of good faith and fair dealing. The matter in controversy between Plaintiff and USAA CIC, according to Plaintiff's demands, exceeds Seventy-Five Thousand and No/100ths Dollars (\$75,000.00), exclusive of interests and costs. (Amended Petition, p. 3-4, Exhibit 11).

5. This Court has original jurisdiction over this case pursuant to 28 U.S.C. § 1332 (1992), by reason of the fact that this is a civil action wherein the amount in controversy, according to Plaintiff's demands, exceeds Seventy-Five Thousand and No/100ths Dollars (\$75,000.00), exclusive of interest and costs and is between citizens of different states. Accordingly, this action may be removed by USAA CIC pursuant to 28 U.S.C. § 1441(a).

6. This Notice of Removal is filed in this Court within thirty (30) days after November 20, 2017, the date USAA CIC was first added as a Defendant via Plaintiff's First Amended Petition and the date USAA CIC was served with a copy of Plaintiff's First Amended Petition, which was the initial pleading setting forth Plaintiff's claims for relief against USAA CIC.

7. Copies of all process, pleadings, and Orders served upon Defendant, USAA, have been attached hereto as Exhibits:

- | | |
|------------|---|
| Exhibit 1: | Petition |
| Exhibit 2: | Summons |
| Exhibit 3: | Entry of Appearance |
| Exhibit 4: | Defendant, USAA Casualty Insurance Company's Motion to Dismiss Plaintiff's Claims Pursuant to Okla. Stat. Tit. 12 § 2012(B)(6) |
| Exhibit 5: | Plaintiff's Response and Objection to Defendant USAA Casualty Insurance Company's Motion to Dismiss |
| Exhibit 6: | Entry of Appearance |
| Exhibit 7: | Defendant, Jeffrey E. Morris's Answer |
| Exhibit 8: | Defendant USAA Casualty Insurance Company's Reply to Plaintiff's Objection and Response to Defendant's Motion to Dismiss Plaintiff's Claims |
| Exhibit 9: | Entry of Appearance |

Exhibit 10: Payne County Disposition Docket
Exhibit 11: First Amended Petition
Exhibit 13: Email of 8-11-2017
Exhibit 14: Letter of 11-15-2017

Pursuant to LcvR 81.2, a copy of the state court docket sheet is attached as Exhibit 12.

WHEREFORE, Defendant, USAA Insurance Agency, Inc., prays that this action be removed.

Dated this 27th day of November, 2017.

Respectfully submitted,

**ATKINSON, HASKINS, NELLIS,
BRITTINGHAM, GLADD & FIASCO**
A PROFESSIONAL CORPORATION

/s/ J. Andrew Brown

J. Andrew Brown, OBA #22504

1500 ParkCentre

525 South Main

Tulsa, OK 74103-4524

Telephone: (918) 582-8877

Facsimile: (918) 585-8096

Attorneys for Defendant USAA Casualty
Insurance Company

CERTIFICATE OF SERVICE

I hereby certify that on November 27, 2017, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

David T. Fletcher
Timothy S. Harmon, Sr.
Coffey, Senger & McDaniel, PLLC
4725 E. 91st St., Suite 100
Tulsa, OK 74137
Attorney for Plaintiff

Whitney Eschenheimer
Johnson and Jones PC
6120 South Yale, Suite 500
Tulsa, OK 74136
Attorney for Defendant Morris

S:\Files\182\160\Removal\notice-mac.wpd